

United States District Court
Eastern District of North Carolina
Western Division

Case No. 5:21-CT-3323

(To be filled out by Clerk's Office only)

FILED

OCT 21 2021

PETER A. MOORE, JR., CLERK
US DISTRICT COURT, EDNC
DEP CLK

REGINALD CLARK

Inmate Number 0627153

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

COMPLAINT

(Pro Se Prisoner)

Jury Demand?

☒ Yes

☐ No

JACQUELYN SMITH;

ANNA DEMEKA BELL AND THE LUMBERTON
CORRECTIONAL INSTITUTION MEDICAL

DEPARTMENT STAFF

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Section IV. Do not include addresses here.)

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

I. COMPLAINT

Indicate below the federal legal basis for your claim, if known. This form is designed primarily for pro se prisoners challenging the constitutionality of their conditions of confinement, claims which are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

- ☒ 42 U.S.C. § 1983 (state, county, or municipal defendants)
- ☐ Action under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971) (federal defendants)
- ☐ Action under Federal Tort Claims Act (United States is the proper defendant; must have presented claim in writing to the appropriate Federal agency and received a notice of final denial of the claim pursuant to 28 U.S.C. § 2401(b))

II. PLAINTIFF INFORMATION

Reginald Clark
Name

0627153
Prisoner ID #

Lumberton Correctional Institution (LCI)
Place of Detention

75 Legend Road
Institutional Address

Lumberton North Carolina 28358-9006
City State Zip Code

III. PRISONER STATUS

Indicate whether you are a prisoner or other confined person as follows:

- ☐ Pretrial detainee ☐ State ☐ Federal
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner

IV. DEFENDANT(S) INFORMATION

Please list the following information for each defendant. If the correct information is not provided, it could result in the delay or prevention of service. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant 1:

Jacquelyn Smith
Name

Associate Warden, Programs
Current Job Title

75 Legend Road
Current Work Address

Lumberton, North Carolina 28358-9006
City State Zip Code

Capacity in which being sued: ☐ Individual ☐ Official ☒ Both

Defendant 2:

Anna Demeka Bell
Name

Registered Nurse (R.N.)
Current Job Title

75 Legend Road
Current Work Address

Lumberton, North Carolina 28358-9006
City State Zip Code

Capacity in which being sued: ☐ Individual ☐ Official ☒ Both

Defendant(s) Continued

Defendant 3: Lumberton Correctional Institution Medical Department Staff

Name

Medical Department

Current Job Title

Lumberton Correctional Institution, 75 Legend Road

Current Work Address

Lumberton, North Carolina

City

State

28358-9006

Zip Code

Capacity in which being sued: ☐ Individual ☐ Official ☒ Both

Defendant 4: Ms. Clark, R.N.

Name

Nursing - Medical Supervisor

Current Job Title

75 Legend Road

Current Work Address

Lumberton, North Carolina

City

State

28358-9006

Zip Code

Capacity in which being sued: ☐ Individual ☐ Official ☐ Both

V. STATEMENT OF CLAIM

Place(s) of occurrence: Lumberton Correctional Institution

Date(s) of occurrence: Various - as shown in statement of FACTS, below

State which of your federal constitutional or federal statutory rights have been violated:

8th Amendment - Cruel and Unusual Punishment - Deliberate Indifference to Serious Medical Needs

State here briefly the FACTS that support your case. Describe how each defendant was personally involved in the alleged wrongful actions, state whether you were physically injured as a result of those actions, and if so, state your injury and what medical attention was provided to you.

FACTS:

Who
did what to
you?

1. On March 28, 2021, while housed at the Neuse Correctional Institution, I injured my right foot. Thinking that there was no serious injury I did not immediately seek medical attention. However, when I, on March 31, 2021, due to pain, swelling and discomfort of the injury to my foot, declared a medical emergency. Whereupon, I was triaged and purportedly scheduled for X-rays to be taken in April 2021.

2. At the appointed time for the X-rays, the X-ray technician failed to show and the appointment was rescheduled and my injured foot was X-rayed at sometime in late-April

or early-May 2021. The X-ray purportedly showed no fractures or breaks to any bones.

3. I subsequently declared a second medical emergency due to the continuing pain and discomfort, and upon being seen at L.C.I. by Medical staff and allegedly referred to be seen by an Orthopaedist, I was purportedly scheduled for a Magnetic Resonating Image (MRI) procedure at that time. However,

What
happened
to you?

prior to my transfer to L.C.I. On May 26, 2021, I heard nothing more regarding such procedure.

4. On or about June 02, 2021 - or shortly thereafter - I commenced an effort to obtain medical attention/treatment for my injured right foot, however, my first sickcall request was cancelled because staff thought that I was on quarantine for COVID-19. I was not on quarantine.

5. Upon submission of my second sickcall request, I received a written response (but no treatment) informing me that I was approved to undergo an MRI on my right foot; nothing more.

When did it
happen to
you?

6. On July 22, 2021, I submitted an inmate grievance regarding the lack of treatment and concern, and the fact that the injury caused virtually constant pain, suffering and discomfort, as well as swelling of my injured foot as I was compelled to walk on it without the aid of a wheelchair, crutches, or a cane, until September 18, 2021.

Where did it
happen to
you?

7. On numerous occasions prior to September 18, 2021, I sought and requested the Medical Staff at L.C.I. to provide me crutches, a wheelchair, or cane, to ease the pressure or eliminate pressure on the injury but none was provided.

8. Staff's deliberate indifference to my serious medical needs has caused my right knee and calf to swell and has caused my lower back to hurt almost constantly.

9. On Sept. 17, 2021, I was transported to UNC-Southeastern Medical Center, where I underwent an MRI of my injured right foot, and

What was
your
injury?

on September 18, 2021, my left foot and leg collapsed due to the excess weight and strain placed thereon during the time that I was required to walk, etc., without necessary support for my injured right foot. L.C.I. medical staff, at that time, provided me use of a wheelchair, and wrapped my left foot with an ACE elastic wrap. Approximately 2 weeks later, on October 4, 2021, I was taken to the UNC Southeastern Surgical Clinic to get the results of the MRI of my right foot. Staff thereat, examined both my feet. I was given an "Orthopedic Support Boot" on my left foot and a set of crutches, and informed that I had a chipped bone on my left ankle.

10. I was also informed that the major injury to my right foot consisted of a "partial tear to the Achilles heel," but due to lack of appropriate and timely medical attention and treatment, voluntary knitting (healing) had commenced and there was nothing the orthopedist could do to correct the [permanent] damage.

11. My right foot and leg still tends to swell and continues to be very painful and uncomfortable due to the stated injury, deliberate indifference to my serious medical needs and the absence of appropriate medical attention and treatment.

VI. ADMINISTRATIVE PROCEDURES

WARNING: Prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions. 42 U.S.C. § 1997e(a). Your case may be dismissed if you have not exhausted your administrative remedies.

Have you filed a grievance concerning the facts relating to this complaint? ☒ Yes ☐ No

If no, explain why not:

Is the grievance process completed? ☒ Yes ☐ No

If no, explain why not:

VII. RELIEF

State briefly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

- 1. Award punitive damages of \$376,000 each defendant.*
- 2. Award compensatory damages of \$500,000.*
- 3. Award ancillary damages in the court's discretion.*

VIII. PRISONER'S LITIGATION HISTORY

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in forma pauperis in federal court if that prisoner has “on three or more occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. §1915(g).

Have you brought any other lawsuits in state or federal court while a prisoner? ☐ Yes ☒ No

If yes, how many? 0/2

Number each different lawsuit below and include the following:

- Name of case (including defendants' names), court, and docket number
- Nature of claim made
- How did it end? (For example, if it was dismissed, appealed, or is still pending, explain below.)

$$n/2$$

IX. PLAINTIFF'S DECLARATION AND WARNING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint and provide prison identification number and prison address.

10/16/2021
Dated

Reginald Clark
Plaintiff's Signature

REGINALD CLARK
Printed Name

0627153
Prison Identification #

75 Legend ROAD Lumberton NC 28358-9006
Prison Address City State Zip Code